

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
UNITED STATES OF AMERICA,

v.

07-CR-24

MEDHI ARDBILI BANIHASHEMI,

Defendant.

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**PRELIMINARY ORDER OF FORFEITURE**

Based upon the Plea Agreement entered into between the defendant, MEDHI ARDBILI BANIHASHEMI, and the government on or about January 26, 2007, in which the defendant agreed to the entry of an Order of Forfeiture against certain properties and as a result of the defendant's guilty plea to Count I of the Information filed herein, pursuant to 31 U.S.C. § 5332(c), 22 U.S.C. § 401 and 28 U.S.C. § 2461, and Fed. R. Crim. P. 32.2(b), the defendant shall forfeit to the United States all his interest in:

(1) The sum of THIRTY-SEVEN THOUSAND TWO HUNDRED SEVENTY-NINE DOLLARS (\$37,279) in United States currency,

(2) The sum of NINE HUNDRED FIFTY-THREE DOLLARS and SIXTY-EIGHT CENTS (\$953.68) in United States currency,

(3) The sum of SIX THOUSAND ONE HUNDRED FIFTY DOLLARS (\$6,150.00) in lieu of one 1999 BMW 740I, VIN: WBAGG8333XDN75370, titled and registered to MEHDI BANIHASHEMI.

Upon the entry of this Order, the Attorney General, through the Department of Homeland Security/United States Customs and Border Protection, is authorized to seize the afore-mentioned properties and to conduct any discovery the court considers proper in identifying, locating, or disposing of the properties subject to forfeiture, in accordance with Fed. R. Crim. P. 32.2(b)(3).

Upon entry of this Order, the Attorney General, through the United States Attorney's Office, is authorized to commence any applicable proceeding to comply with the statutes governing third party rights, including giving notice of this Order.

The United States shall publish notice of the order and its intent to dispose of the properties in such a manner as the Attorney General may direct. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the subject properties.

Any person, other than the above named defendant, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the court for a hearing without a jury to adjudicate the validity of his alleged interest in the subject

property, and for an amendment of the order of forfeiture, pursuant to 31 U.S.C. § 5332, 22 U.S.C. § 401 or 28 U.S.C. § 2461(c) which incorporate 21 U.S.C. § 853(n), it is further

**ORDERED, ADJUDGED and DECREED**, Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Preliminary Order of Forfeiture is now final as to the defendant and shall be made part of the sentence and included in the judgment. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2).

Any petition filed by a third party asserting an interest in the subject properties shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the subject properties, the time and circumstances of the petitioner's acquisition of the right, title or interest in the subject properties, any additional facts supporting the petitioner's claim and the relief sought.

After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

The United States shall have clear title to the subject properties following the Court's disposition of all third party interests, or, if none, following the expiration of the period for filing third party petitions, as provided in 21 U.S.C. § 853(n)(2), which is incorporated by 31 U.S.C. § 5332, 22 U.S.C. § 401 and 28 U.S.C. § 2461(c) for the filing of third party petitions and the Court shall issue a Final Order of Forfeiture, it is further

**ORDERED, ADJUDGED and DECREED**, that this Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

IT IS SO ORDERED.

Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

Dated: January 29 , 2007